



SOFTWARE TERMS – SERVICE SCHEDULE

DOVETAIL BUSINESS SOLUTIONS (PTY) LIMITED

(Registration no.: 1997/13585/07)
(Hereinafter referred to as "**Dovetail**")

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PREAMBLE

These Software Terms supplement the Dovetail General Terms and Conditions.

1. DEFINITIONS

- 1.1 **"Concurrent Users"** means the total number of simultaneous users accessing the Software at any given time during the Software License term;
- 1.2 **"Copyright"** means all rights of copyright whether existing now or in the future in and to the Software including, without limitation, initial drawings, sketches, flow charts and designs and Documentation relating thereto;
- 1.3 **"Designated Equipment"** means the Customer's computer and operating system in respect of which the License is granted, as defined during the Project Plan;
- 1.4 **"Documentation"** means, collectively, the operation instructions, user manuals and all technical information and materials, in whatever form, provided by Dovetail to Customer which describes the use of, or are used in connection with the Software, and which either accompany the Software or are provided to Customer at any time thereafter;
- 1.5 **"Effective date"** means the date upon which the terms and conditions of this Service Schedule commence and take effect. Alternatively, notwithstanding the signature date, the date stipulated as such in the Schedule/s concerned;
- 1.6 **"Fees"** means any of the following - Software Fees or Annual License Fees;
- 1.7 **"Installation Date"** means the date on which the parties agree under the Project Plan to be the date Dovetail shall install the Software specified under the Schedule of Services. It does not necessarily mean that the Software is usable as agreed to under this Service Schedule yet;
- 1.8 **"Location"** means the locations / premises identified during the Project Plan by the Parties;
- 1.9 **"Software Fee"** means the fee payable by the Customer to Dovetail in consideration for the usage of the Software;
- 1.10 **"Named User"** means each user of the system should have their own access permission log in identification. An access permission log in identification is assigned for individual use and must not be shared by multiple people. The individual access permission log in identification should be used whether access is by that person is through a PC, RF terminal, PDA, web capable phone, or any other device.
- 1.11 **"Order Date"** means the date on which the official order in writing is received from the Customer. The payment of such order shall ratify the order and Dovetail shall not commence with any work until such payment has been confirmed received by Dovetail;
- 1.12 **"Release"** means any version of the Software made available by Dovetail;
- 1.13 **"Software"** means, collectively, all version(s) of software program(s) set forth in the Schedule of Services (as may be amended from time to time by the parties) in object code format (where applicable),

including updates, modifications, or new releases or any module or part of such software programs and Documentation that will be provided by Dovetail to Customer from time to time;

- 1.14 **Software Registration Form** means the form that details the Software being purchased by the Customer. It is bound to this Software Terms Service Schedule;
- 1.15 **"Source Code"** means the presentation of the Software, regardless of the form in which it is stored, from which it is possible to discern the logic, algorithms, internal structure, operating features and any other design characteristic of the Software;
- 1.16 **"Third-party Software"** means third-party software programs delivered to Customer by Dovetail as specified on the Product Schedule;
- 1.17 **"Transaction"** means the processing and execution of any measurable transaction relevant to the business such as waybills, orders, invoices or picking slips or as may be stipulated from time to time;
- 1.18 **"Units of Measure"** means either Named Users, Concurrent Users or per Transaction;
- 1.19 **"Updates"** means any update, modification, patch or new release of the Software that Dovetail makes generally available to its Customers from time to time and that is intended to replace a prior Software Release.
- 1.20 **"Upgrade"** means any change or improvement to the supported Software or any component thereof that relates to or affects the operating performance or an aspect of such supported Software, but does not change the basic operation or functionality of the supported Software. Upgrades are usually identified by a change in the version number, for instance a change from version 1.1 to version 1.2;

2. GRANT OF LICENSE

- 2.1 In consideration of payment of the fees as set out in the Schedule of Services, Dovetail grants the Customer a non-exclusive, non-transferable, personal license to use the Software in accordance with this Service Schedule. The License is not transferable without the prior written consent of Dovetail. The Software is licensed by Dovetail, and the Customer acknowledges that the Software and all related information, including Updates or New Releases, are proprietary to Dovetail and / or its Licensors.
- 2.2 **Perpetual License:** the Software is licensed to the Customer on a perpetual basis, as indicated in the Dovetail pricing sheet, or if Dovetail does not indicate in the pricing sheet that the license is granted on a term basis, the license shall be considered perpetual, but subject to termination for breach of this Agreement or as otherwise provided in the Agreement. Certain rights under this Service Schedule are

subject to licenses that have been agreed to between Dovetail and certain licensors. This Service Schedule is subject to those license agreements.

3. LICENSE TYPE AND TERM

- 3.1 Specific end user license terms and conditions shall be reflected under the appropriate Service Schedules and it shall be the responsibility of the Customer to ensure that its employees and representatives are familiar with those terms and conditions.
- 3.2 **Term License:** If Dovetail licenses Software to the Customer on a term basis / specific term,
- 3.3 the license shall remain in effect for the indicated period of time (the “Initial Period”) and shall automatically renew for the subsequent renewal periods. All licenses are temporary until Customer has paid all applicable fees.

Audit rights: Dovetail shall have the right at any time to request or execute, during regular business hours and shall not interfere unreasonably with the Customer’s activities, at the Customer’s Premises an audit at Dovetail’s expense to ensure that the Customer complies with the terms of the particular Service Schedule where Software has been provisioned.

- 3.4 **Back-up Copies:** The Customer shall be entitled to make and maintain back-up copies of the Software licensed by Dovetail for operational security and archival purposes, provided that the copies are kept in a secure location and contains the copyright and other proprietary notices contained in the original. Back-up copies may be used whenever the Software licensed or data generated by it is rendered unusable, inoperable or inaccessible or needs to be accessed for archival purposes.

4. USE RESTRICTIONS

- 4.1 The Software may only be installed and used against the number of Units of Measure, at the Location and on the Designated Equipment and subject to the terms and conditions of this Service Schedule;
- 4.2 The License granted is for the supply and use of the Software by the Customer for processing its own data for its own internal business processes only;
- 4.3 Customer shall not, nor allow any third party to: (i) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover any source code or underlying ideas or algorithms of the Software or any part thereof by any means whatsoever; (ii) remove any product identification, trademarks, copyright, or other notices; (iii) provide, sublicense, lease, lend, use for timesharing or service bureau purposes or facility management or outsourcing services, or otherwise use or allow others to use the Software for the benefit of third parties, including but not limited to data processing services to third parties; (iv) except as specified in the Documentation, modify, incorporate into or with other software or create a derivative work of any part of the Software; or (v) except with Dovetail’s permission, disseminate performance or benchmark tests or analysis relating to the Software;
- 4.4 The Customer shall limit the use and disclosure of the Software to its employees and to its consultants who agree to be bound to the terms and conditions of this Service Schedule;
- 4.5 Subject to written permission from Dovetail, Customer may license Software on behalf of Customer’s subsidiaries that have agreed in writing to be bound by and subject to the provisions of this Service

Schedule. Customer shall ensure compliance of each such subsidiary with the provisions of this Service Schedule;

- 4.6 If the Customer wishes to use the Software on and in conjunction with any permanent replacement equipment, or any additional equipment, or change the authorised number of Units, or extend or change the license, the Customer shall provide Dovetail with full details of the proposed change or addition and shall apply for the grant of a new license in relation thereto or the amendment of the existing License, and providing that such equipment is suitable for use with the Software then on payment of the prevailing Software Fee applicable to such change or addition a new license will be granted. An increase in the authorised number of Units can be made at any time, against the prevailing Fee rate and time of request, submitted to Dovetail in writing or via other Dovetail approved method;
- 4.7 Should the Customer wish to change the Location of the Designated Equipment then the Customer should promptly notify Dovetail in writing of the proposed new location. Changes of Location may be subject to payment of additional fees. The new location will become the Location under this Service Schedule once confirmed in writing by Dovetail.
- 4.8 If the details of the Designated Equipment are not shown on this Service Schedule then it shall be the equipment and operating system on which the Software is first used. The details may subsequently be recorded on this Service Schedule by Dovetail, when known.

5. FEES AND CHARGES

- 5.1 In consideration of the License rights granted in this agreement² above, the Customer shall pay the Software Fees, as set forth in the proposal document.
- 5.2 All software and services fees increase each year by CPI.
- 5.3 **Saas (rental) Monthly Fee:**
- 5.3.1 The monthly Saas Fee (rental) option is applicable if the Customer does not choose to purchase the software on a Capex basis. The monthly fee is paid monthly in advance, subject to the escalation for subsequent years.
- 5.4 **Annual License Fee:**
- 5.4.1 All Software has an Annual License Fee (“**ALF**”) associated with it. No Software is licensed without an ALF in addition to the Software Fee below. ALF’s are charged at 20% of the current list price on Software or as specified in the pricing sheet, subject to the escalation for subsequent years.
- 5.4.2 **Lapse of Coverage for ALF:** In the event that coverage for ALF lapses as a result of either termination by Customer for any reason or by Dovetail for Customer’s non-payment, renewal of such service will require payment by Customer of a reinstatement fee to Dovetail equal to one hundred percent (100%) of the sum of the fees for any previously

unpaid contract period(s) plus full payment for the subsequent annual period. All support and maintenance will immediately cease when ALF is not paid (from year 4).

5.5 **Software Fee:** The Software Fees will be payable to Dovetail as per agreed payment schedule and any subsequent updated / amended payment schedules as agreed to in writing between the Parties.

5.6 **Payment terms:**

5.6.1 Payment terms are linked to the proposal document.

6. LIMITATION OF LIABILITY

6.1 Unless otherwise agreed to, the following will apply:

6.1.1 To the extent permitted by applicable law, in no event shall either Party or its Personnel be liable for any indirect, incidental, special or consequential damages or losses arising from this Agreement or damages caused as a result of events beyond its reasonable control.

6.1.2 Direct damages limitation. To the extent permitted by applicable law, notwithstanding the form (whether in contract, delict, or otherwise) in which any legal action may be brought, Dovetail's aggregate liability for all damages giving rise to any legal action shall be limited to two (2) months of the Monthly software Fees actually paid by the Customer in the specific pricing sheet under which the damages occurred;

6.1.3 **Exclusions.** The limitation of liability shall not apply to any breach by the Customer of Dovetail's proprietary or Confidential Information or Intellectual Property.

6.1.4 **Indemnity.** Each Party agrees to indemnify, defend and hold the other Party (and its Personnel) harmless against any and all loss of or damage to any property or injury to or death of any person; and (ii) loss, damage (including attorneys' fees on an attorney and own client basis), costs and expenses which the other Party may suffer or incur arising directly or indirectly from caused by any wilful misconduct or fraud of such Party or its Personnel.

7. LIMITED WARRANTY AND DISCLAIMER

7.1 Dovetail warrants that it has the right to License the Software;

7.2 Customer accepts the Software upon delivery;

7.3 Subject to the conditions and limitations on liability stated herein, Dovetail warrants that, when delivered and for a period of 60 (sixty) days thereafter, the Software licensed hereunder will materially conform to the Documentation for such Software, however Dovetail does not warrant that the operation will be

uninterrupted or error free, will meet Customer's requirements, or will be compatible with other software products except for compatibility committed in Dovetail's Software documentation;

- 7.4 This warranty will only apply for problems reported in writing to Dovetail during such warranty period and will not apply if:-
- 7.4.1 the Software is not used in accordance with the Documentation;
 - 7.4.2 the Software or any part thereof has been altered, modified deleted or addition by Customer or any other 3rd Party without the prior written consent of Dovetail;
 - 7.4.3 a defect in the Software has been caused by any of Customer's malfunctioning equipment;
or
 - 7.4.4 any other use within the control of Customer results in the Software becoming inoperative, including but not limited to Customer's use of Software in combination with software or hardware not provided by Dovetail or specified as compatible by Dovetail.
- 7.5 If the problem is found upon investigation not to be Dovetail's responsibility, Dovetail may charge the Customer forthwith for all reasonable costs and expenses incurred by Dovetail or its authorized 3rd Party service provider in the course of or in consequence of such investigation;
- 7.6 Dovetail and its Licensors disclaims all other warranties, either express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose or those implied by statute,

common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law;

8. SECURITY AND CONTROL

- 8.1 The Customer shall during the continuance of the License:
- 8.1.1 Effect and maintain adequate security measures to safeguard the Software from access or use by any unauthorised persons;
 - 8.1.2 Keep the Software and all copies thereof under the Customer's effective control;
 - 8.1.3 Maintain a full and accurate record of the Customer's copying of the Software and shall produce such record to Dovetail on request from time to time;
 - 8.1.4 Ensure that any access to the database associated with the Software by any third party software is under the control of the System Manager module that forms part of the Software.
- 8.2 Use of the Software is controlled by a License Security Code which is issued on delivery and periodically thereafter whilst the license remains in force.

9. SOFTWARE MAINTENANCE AND SUPPORT SERVICES

Dovetail agrees to provide the following service for the Software listed in the Software Registration Form:

9.1 SCOPE OF SERVICES:

9.1.1 Support services:

- 9.1.1.1 Payment of the ALF and monthly support fees as per the pricing sheet entitles the Customer to the Support Services as set out under the Support Terms - Service Schedule.
- 9.1.1.2 The support services will be available to the Customer during the term (as amended from time to time) of this Service Schedule and on the Designated Equipment.

9.1.2 Maintenance Services, Product Upgrades and New Releases:

- 9.1.2.1 Dovetail shall from time to time inform the Customer of the availability of a new Release of the Software and will issue a Release Notice, which will contain a written description of the features and functions of the new Release.
- 9.1.2.2 Within a reasonable period following a request from the Customer Dovetail will provide one copy of the new Release of the Software and one copy of any updates to the Software Documentation and the Customer shall pay the charge as notified and shall be responsible for using such new Release according to the terms set out herein.
- 9.1.2.3 As soon as reasonably practical after delivery of the new Release Dovetail shall, if necessary, provide training for the Customer's staff in the use of the new Release to enable the Customer to discharge his obligations regarding the use

of fully trained staff. The Customer shall pay for such training based upon the standard scale of charges of Dovetail for the time being in force.

- 9.1.2.4 Dovetail may classify a particular Release of the Software as Withdrawn or a Release for use with a particular level of operating or development software or hardware model as Withdrawn by giving to the Customer six (six) months written notice of such classification.

9.2 SERVICE LIMITATIONS

- 9.2.1 Dovetail will respond to support calls provided the Software has not been modified and is operated in accordance with Dovetails' specifications and on the Designated Equipment and payment of all Fees is up to date.
- 9.2.2 Software Maintenance and Support is contingent upon the use of the Software in accordance with Dovetails' specifications and does not include any of the following:
- 9.2.2.1 Defects or errors resulting from any modification of the Software unless such modifications are incorporated into the Software by Dovetail;
 - 9.2.2.2 Service to a version of Software other than the current or immediate prior Release;
 - 9.2.2.3 Efforts to restore a Release of the Software beyond the current or immediate prior Release;
 - 9.2.2.4 Incorrect use of the Software or operator error;
 - 9.2.2.5 Any fault in the Designated Equipment or in any software used in conjunction with the Software;
 - 9.2.2.6 Defects or errors caused by the use of the Software on or with equipment (other than the Designated Equipment) or software not approved in writing by Dovetail;
 - 9.2.2.7 Rectification of data corruptions;
 - 9.2.2.8 A failure by the Customer to keep up to date security copies of the Software and its data in accordance with best computing practice; or
 - 9.2.2.9 Efforts to restore Customer data beyond the most recent back-up. Note that this refers to data only and not the backup itself. Any age backup will be restored, however data lost is not the responsibility of Dovetail;
- 9.2.3 Dovetail will respond to maintenance calls provided the Customer has provided Dovetail with access to the Software via a communication connection with acceptable bandwidth.

9.3 CUSTOMER'S RESPONSIBILITIES

- 9.3.1 Customer is responsible for maintenance and installation of any common carrier equipment (networks) or communication service related to the operation of the Software and not furnished by Dovetail and made available to Dovetail for purposes of the Software Services;
- 9.3.2 Customer is also responsible for charges incurred for communication facilities at Customer's facilities, whether incurred by Customer or by Dovetail Service representatives while performing Service on the Software;
- 9.3.3 Ensure that the Software and the Designated Equipment are used and operated in a proper manner by competent employees and that all persons who use the Software shall

be sufficiently trained to enable proper use of the facilities and functions included. The Customer shall save Dovetail harmless from any claim or liability whatsoever arising out of or in connection with any error, malfunction, or want of performance caused by or resulting from any deficiency by the Customer in obtaining the requisite training;

- 9.3.4 Keep full security copies of the Software and of the Customer's databases and computer records in accordance with best computing practice;
- 9.3.5 Not request, permit or authorise anyone other than Dovetail to provide any Software Services in respect of the Software;
- 9.3.6 Co-operate fully with personnel employed by or on behalf of Dovetail in the diagnosis of any error in the Software or Software Documentation and ensure that every error is reported to Dovetail on the prescribed form;
- 9.3.7 Make available to Dovetail free of charge all information facilities and services reasonably required to enable Dovetail to perform the Software Services including but without limitation, computer runs, core dumps, and printouts;
- 9.3.8 Customer is responsible for performing Software back-ups in accordance with published documentation. Unless the cloud or hosting service is provided by Dovetail;
- 9.3.9 Customer shall notify Dovetail of any Software failure and shall allow Dovetail reasonable access to the Software for performing Service;
- 9.3.10 Customer should provide Dovetail with remote access to the Software via a suitably fast data connection;
- 9.3.11 Customer must provide a trained System Administrator and should be familiar with Dovetail' tools and applications purchased by the Customer;
- 9.3.12 Service calls must be placed to Dovetail by a trained System Administrator and authorised contact;

9.4 SOFTWARE MODIFICATION

- 9.4.1 Dovetail will not be responsible to Customer for loss of use of the Software or data or for any other liabilities arising from alterations, additions, adjustments or repairs that are made to the Software by other than authorised representatives of Dovetail, or at the discretion of Dovetail.
- 9.4.2 Dovetail reserves the right to terminate this Service Schedule immediately upon written notice to Customer if any such alteration, addition, adjustment or repair adversely affects Dovetail ability to render maintenance Service to the Software.

9.5 SUPPLEMENTAL MAINTENANCE SERVICES

- 9.5.1 **Movement of Software:** Software moved to another location within the original country of delivery shall continue to be serviced under this Service Schedule. Customer shall give Dovetail at least thirty (30) days written notice specifying the new location prior to any movement. Reinstallation should occur within thirty (30) days of de-installation. A post-move inspection may be required by Dovetail and billed at Dovetail time and material rates;
- 9.5.2 **Other Service.** Dovetail rendering of ad hoc professional, project and onsite consultation services is not included in this agreement. If requested by the Customer, these services

will be subject to availability and, if performed, will be charged to the Customer at current time and material rates and terms to be determined at the time of the request.